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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,944	07/30/2003	Donald D. Reid	10628.00073	8878

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EXAMINER

COMPTON, ERIC B

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,944

Applicant(s)

REID ET AL.

Examiner

Eric B. Compton

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION***Claim Rejections - 35 USC § 102***

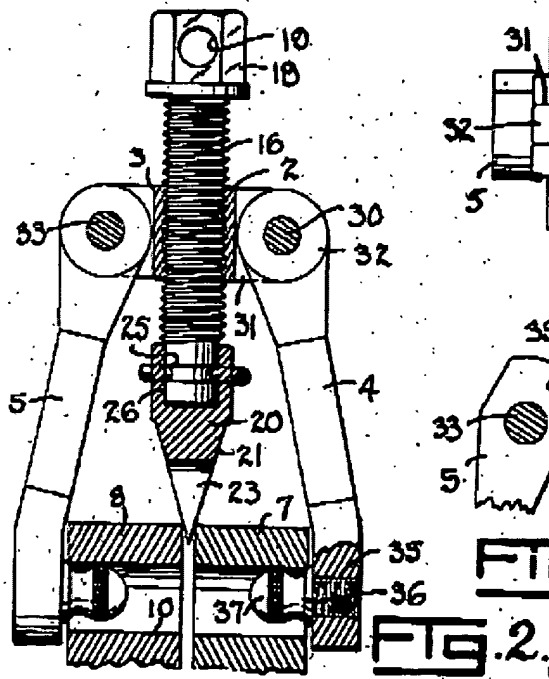
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. 2,352,290 to Saul et al.

Saul discloses a spreader tool having the same structural features as claimed by Applicant. See Figure 2, below.



Note: although, Saul does not explicitly disclose the tool is used "for spreading the opposed legs of a pitman-arm," a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

3. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. 2,420,438 to Morgan.

Morgan discloses a spreader tool having the same structural features as claimed by Applicant. See Figure 1, below.

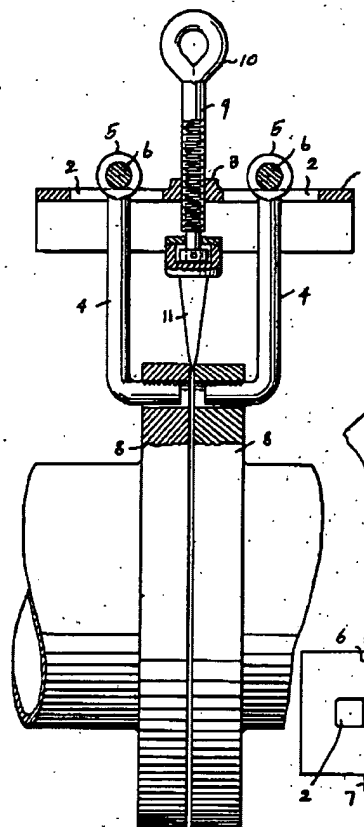


FIG. 1.

Note: although, Morgan does not explicitly disclose the tool is used "for spreading the opposed legs of a pitman-arm," a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant's Admitted Prior Art (AAPA) in view of U.S. Pat. 2,352,290 to Saul et al.

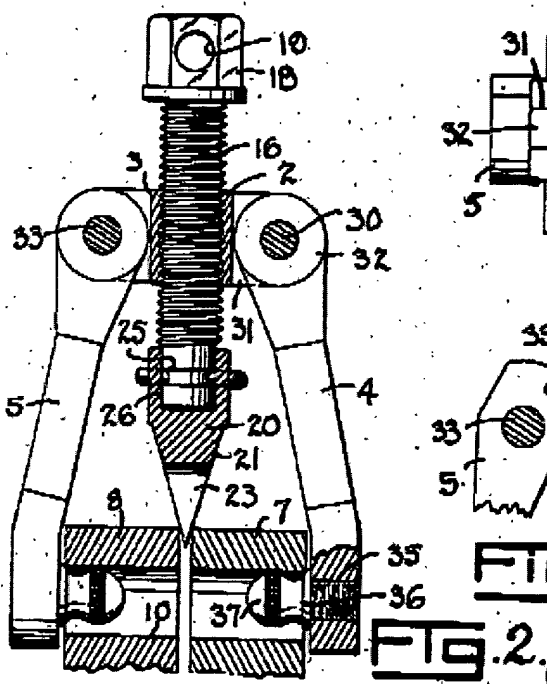
AAPA, as found on page 2 of the Specification, discloses prior art removal of a pit-man arm using a wedge hand tool:

[0002] Pitman-arms of various size and configuration are utilized in vehicles to transfer motion, for example, rotary motion to longitudinal motion. Typically the pitman-arm includes a throughbore or passage capable of receiving a shaft, for example, a driving shaft. One end of the arm is mounted on the shaft and the opposite end of the arm is attached to another element of the vehicle. Pitman-arms utilized in larger or heavy duty vehicles are massive; being not only structurally large, but quite heavy and cumbersome. Typically such pitman-arms include a shaft opening defined by a pair of opposed, slightly spaced legs. The arm is mounted on a shaft and retained thereon by means of a bolt located in a bore through the legs adjacent to and transverse to the shaft. The bolt tightens the legs on the shaft.

[0003] When repairing or servicing a vehicle having a heavy duty pitman-arm, it is often desirable to remove the pitman-arm. This is initially accomplished by removing the retention bolt. However, corrosion of the component parts of the vehicle may preclude ease of removal of the pitman-arm from the shaft. Therefore additional leverage is required. For example, some mechanics will attempt to drive a hand wedge between the arms forming the shaft opening in the pitman-arm. This, however, is considered to be somewhat dangerous inasmuch as the wedge may slip from its position and is not easily guided when attempting to spread the legs. Thus, there has developed a need for a tool which will facilitate removal of a pitman-arm of a type having opposed legs defining a shaft opening.

However, AAPA does not disclose removal of a pitman-arm using the tool as claimed.

Saul discloses a spreader tool having the same structural features as claimed by Applicant. See Figure 2, below.



Saul discloses "[t]he invention relates to a flange spreader of a type to be used in connection with the spreading of flanges on pipelines, valve connections and *similar structures*." Col. 1, lines 1-3 (emphasis added). "Broadly the invention contemplates a flange spreader which can be readily attached and removed form the flanges and which will facilitate spreading of the flange without danger." Col. 3, lines 12-16. This is the

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same rationale as Applicant noted. See Speciation at [0003] (“[Pitman arm removal] is considered to be somewhat dangerous inasmuch as the wedge may slip from its position and is not easily guided when attempting to spread the legs.”). The flange connection (8, 7) having lateral bores (10) of Saul, is nearly identical to Applicant’s pitman arm (52, 54) having bores. Cf. Saul Fig. 2 *with* Applicant’s Figure 7. Saul discusses the many benefits of the tool. Col. 1, lines 16-34.

Regarding claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have removed the pitman arm of AAPA using the wedged spreader tool, in light of the teachings of Saul, so that the tool “can be quickly attached and which will enable the operator to exert a sufficient force by use of the tool to spread the flanges.” Col. 1, lines 17-20.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Compton whose telephone number is (571) 272-4527. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric B. Compton
Primary Examiner
Art Unit 3726

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